

REMARKS

Claims 1-17 are in this Application. Applicants have amended independent claims 1, 6 and 11 in order to clarify claim scope. No new matter has been added. In the Office Action mailed on September 5, 2001, the Examiner rejected claims 1-3, 6, 8, 9, and 11-13 under 35 U.S.C. § 103(a) as being anticipated by U.S. Patent No. 5,878,036, filed December 20, 1995, and issued to Spartz et al. (Spartz) in view of U.S. Patent No. 5,822,420, filed August 30, 1996, and issued to Bolon et al. (Bolon). The Examiner also rejected claims 4-5, 7, 10 and 14 under 35 U.S.C. § 103(a) as being anticipated by Spatz and Bolon as applied to claims 1, 6, and 11 and further in view of U.S. Patent No. 5,633,868, filed October 17, 1994, and issued to Baldwin et al. (Baldwin). The Applicants respectfully traverse the Examiner's rejections.

35 U.S.C. §103(a): Spartz, in view of Bolon

The Examiner rejected claims 1-3, 6, 8, 9, and 11-13 under 35 U.S.C. § 103(a) as being unpatentable over Spartz in view of Bolon. Applicants respectfully disagree. The pertinent independent claims are claims 1, 6 and 11.

The Examiner states that "Bolon discloses a method of detecting the occurrence whereby a mobile subscriber attempts to make a call while another party is attempting to call the same mobile subscriber and generating a message signal at a switching center for transmitting to the mobile subscriber via base station." (Detailed Action, Item 2). Bolon does not disclose Applicants' claimed invention in Column 3, lines 3-15 as cited by the Examiner. Column 3, lines 3-15 disclose a condition whereby a Customer Premises Equipment (CPE), which is not a mobile device adhering to an A-Interface standard, places an outgoing call when a Network Interface Unit (NIU), unrelated to a base station in a wireless communication system adhering to IS-634 interface standards with a mobile station, is sending the CPE an incoming call, or a condition whereby a NIU places

an incoming call to the CPE when a Radio Base Unit (RBU) is sending the CPE and outgoing call. The conditions disclosed by Bolon are switching conflicts in a Digital Loop Carrier (DLC). Resolution of switching conflicts in DLCs do not address the IS-634 requirements of a Base Station Controller or a Mobile Switching Center in a wireless cellular communications system. Resolution of switching conflicts in DLCs do not overcome deficiencies in IS-634 communications between base stations and mobile switching centers of CDMA systems that prevent a mobile from receiving a call when a mobile subscriber attempts to originate a call while another party is attempting to call the same mobile subscriber. The protocol taught by Bolon to resolve switching conflicts in DLCs cannot be applied to the endpoints of a CDMA system to enable a mobile to receive a call when a mobile subscriber attempts to originate a call while another party is attempting to call the same mobile subscriber. The Examiner himself concedes that "Spartz fails to disclose a step of detecting the occurrence of a condition whereby a mobile subscriber attempts to make a call while another party is attempting to call the same subscriber.. ."

In view of the above-discussed insufficiencies of *Bolon* and *Spartz* to render Applicants' invention obvious, it is respectfully requested that the section 103 rejections of claims 1-3, 6, 8, 9, and 11-13 be withdrawn.

35 U.S.C. §103(a); Spartz, in view of Bolon and Baldwin

The Examiner rejected claims 4-5, 7, 10, and 14 under 35 U.S.C. § 103(a) as being unpatentable over Spartz in view of Bolon. Applicants respectfully disagree. The pertinent independent claims are claims 1, 6 and 11.

The Examiner states that "Baldwin discloses transmitting Alert With Information Message Signals between a wireless gateway and a subsystem of a CDMA wireless network." (Detailed Action, Item 3). Hence, the Examiner concludes that *Spartz* and *Bolon* in view of *Baldwin* render claims 4 – 5, 7, 10, and 14 unpatentable.

IS-634 messaging signals are not used in wireless gateway communications described by Baldwin. The protocol taught by Baldwin to resolve switching conflicts in DLCs cannot be exchanged between a base station and a mobile switching center to enable a mobile to receive a call when a mobile subscriber attempts to originate a call while another party is attempting to call the same mobile subscriber. The protocols cannot be exchanged because the signaling between the endpoints of the differing systems is unique to the systems. The like naming of a message signal by different systems does not make the content and arrangement of the signals appropriate for one system compatible to the other system. The content and arrangement of messaging signals between a Mobile Switching Center, Base Station, and Mobile Subscriber of a CDMA system required for call processing have no application in a DLC system. Likewise, the content and arrangement of messaging signals between a NIU, CPE and RBU of a DLC system have no application in CDMA system. The use of a signal arrangement for a DLC system in a CDMA system would result in the discarding of an erroneous and unusable message, and vice versa.

The Alert with Information messages used in virtual circuit management cannot be applied to enable a mobile to receive a call when a mobile subscriber attempts to originate a call while another party is attempting to call the same mobile subscriber. The Alert with Information messages appropriate for virtual circuit management in a DLC system would not contain parameters usable for call processing in a CDMA system, and the sequencing of the message would not apply either. Furthermore, the arrangement of the claimed IS-634 signals has a distinct purpose different from the arrangement of the signals disclosed in Spartz, Bolon and Baldwin. The distinct purpose of the content and arrangement of the claimed IS-634 signals is for call processing in a CDMA system. Applicant respectfully submits that a new arrangement of old signals with a distinct purpose different from the purposes disclosed in Spartz, Bolon, and Baldwin is patentable over the cited art. As previously discussed with respect to Spartz and Bolon Applicants assert that the addition of the Baldwin reference fails to teach or suggest Applicants' claimed invention utilizing IS-634 messaging signals.

In view of the further described insufficiencies of the *Spartz* and *Bolon* references in combination with the *Baldwin* reference to render Applicants' invention obvious, it is respectfully requested that the section 103 rejection of claims 4-5, 7, 20, and 14, be withdrawn.

REQUEST FOR ALLOWANCE

In view of the foregoing, Applicants submit that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application is earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Respectfully submitted,

Dated: 01/15/2002

By: Maryanne E. DeAngelo
Maryanne E. DeAngelo
Agent for Applicants
Registration No. 47,228

QUALCOMM Incorporated
5775 Morehouse Drive
San Diego, California 92121
Telephone: (858) 651-2384
Facsimile: (858) 658-2502